

Notice of Allowability

Application No.

10/059,447

Examiner

Manjunath N. Rao, Ph.D.

Applicant(s)

SMITH, DANIEL S.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper filed on 6-15-05.
2. ☒ The allowed claim(s) is/are 1-4 and 9.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 3-15-05.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

Claims 1-4, 9 are currently pending and are present for examination.

Applicants' amendments and arguments filed on 6-15-05, have been fully considered and are deemed to be persuasive to overcome the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

Drawings

Drawings submitted in this application are accepted by the Examiner for examination purposes only. It is noted that applicants have filed a set of colored drawings. Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) is granted permitting the use as acceptable drawings. In the event that applicant wishes to use the drawings currently on file as acceptable drawings, a petition must be filed for acceptance of the color photographs or color drawings as acceptable drawings. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawings will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

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In response to the above requirement, applicants have remarked that a set of black and white drawings that do not require any petitions or additional fees have been enclosed. However, Examiner found no such enclosure. Hence Examiner urges applicants either to file the petition and pay the fees or provide a set of identical drawings in black and white before payment of issue fees.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Amy Rinaldo on 8-26-05.

The application has been amended as follows:

In the specification:

- A) On page 1, line 7, insert the phrase "now US 6399749, 6/4/2002" after "filed November 3, 1998,".

In the claims:

- B) In claim 1, line 2, delete the word "sequences" and replace with "sequence".
- C) In claim 1, lines 2-3, delete the phrase "set forth in".
- D) In claim 2, line 2, delete the phrase "set forth in" and replace with "of".
- E) In claim 2, line 2, delete the phrase "characterized by".

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- F) In claim 3, line 2, delete the phrase “set forth in” and replace with “of”.
- G) In claim 3, line 2, delete the phrase “characterized by”.
- H) In claim 3, line 5, delete the word “by” and insert “on”.
- I) In claim 4, line 2, delete the phrase “according to” and replace it with “of”.
- J) In claim 4, line 3-4, delete the phrase “a sequence selected from the group consisting essentially of SEQ ID NOs:1-11” and replace it with “the amino acid sequence SEQ ID NO:11”.
- J) In claim 9, line 2, delete the phrase “as set forth in” and replace it with “with an amino acid sequence”.
- K) In claim 9, line 2, delete the phrase “and functional analogs thereof”.

Allowable Subject Matter

Claims 1-4 and 9 are allowed.

The following is an examiner’s statement of reasons for allowance: Following a diligent search it was determined that the prior art neither teaches nor suggests an isolated and purified a-N-acetyl-D-galactosaminidase from *Clostridium perfringens* having the sequences set forth in SEQ ID No:11 with the instant properties as outlined in claims 1-4 and 9.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

A handwritten signature in black ink, appearing to read 'Manjunath N. Rao', with a stylized flourish at the end.

Manjunath N. Rao, Ph.D.
Primary Examiner
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August 29, 2005